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C O N F I D E N T I A L SECTION 01 OF 03 BUCHAREST 000469

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STATE DEPT FOR EUR/NCE - AARON JENSEN

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SUBJECT: EXPERTS QUESTION NEW JUSTICE MINISTER'S COMMITMENT
TO ANTI-CORRUPTION EFFORTS

Classified By: Political Counselor Theodore Tanoue for reasons 1.4 (b)
and (d)

¶1. (C) Summary: Embassy contacts working to advance anticorruption and justice reform expressed doubts concerning new Justice Minister Tudor Chiuariu's commitment to reform. Two experts, one with the European Commission Delegation in Romania and the other from the Ministry of Justice, evinced near certainty that the new government's anti-corruption efforts would be for the sake of image alone. End Summary.

¶2. (C) Dragos Tudorache, the European Commission's Justice and Anti-Corruption Task Manager told PolOff on April 19 that new Liberal Minister of Justice, 30-year-old Tudor Chiuariu, "has no idea what he is running" and "has no standing before the magistracy," adding "they would eat him alive if he ever tried to open his mouth." The EC's local expert on the subject, who has been involved in reshaping and monitoring the progress in justice reform and anticorruption, added that Chiuariu had "never dealt with the justice system." He said that Chiuariu was an attorney trainee in Iasi and then worked for 2-3 years as an in-house attorney for the leader of the Liberal Party in Iasi and local real estate baron Relu Fenechuiu. He speculated that Chiuariu received that job due to his father-in-law, Mihail Vlasov, one of Fenechuiu's more prominent Iasi lawyers. Tudorache added that Chiuariu worked mainly on Fenechuiu's real estate deals "and all that implies."

Europe Has No Stick to Use

¶3. (C) Five EU member states -- UK, Netherlands, France, Sweden, and Finland -- are pressing the European Commission to be tough on Romania, according to Tudorache, and would try to raise the pressure by the time of the EC's June consultation meeting with member states. However, Tudorache commented that the EC "has no stick to use" on Romania. He added that there was division within the EC over the feasibility of activating the safeguard clause, which would cause Romanian judgments not to be recognized in the EU. Tudorache said it was never designed to be used, but was "developed in support of Macovei for her to use EC backing to get things done." Tudorache added that there was "no real legal basis" even though "they tried to invent it," and that "it could easily be challenged in the European Court of Justice" and would not stand legal challenge, especially since none of the EC's four benchmarks concerned the functioning of the justice system. He added that the only "real stick" the EC had was "enormous"--e.g., states not in compliance might have their voting rights in Council withdrawn, but there was no appetite in the EC to use this stick against Romania. In

the end, he said, there was not anything the EC could do beyond "talk and threaten."

14. (C) Tudorache predicted that the government would reintroduce the draft law establishing a National Integrity Agency (ANI) in a form that would please the EC "since they know they are in trouble with us." Tudorache cited Minister Chiuariu's willingness to reintroduce the agency's powers to monitor conflicts of interest. Tudorache said the real trouble would be in setting up the agency. He had no doubt the anticorruption effort would be delayed and ultimately stymied. He said that the government would "definitely put it under control of Parliament -- something we will have no basis on which to challenge" since there was nothing like it in other EU member states. The effect, however, would be to give parliamentarians power over the ANI to keep it from threatening their financial interests.

Huge Carrots Might Not Even Work

15. (C) The real shame for the Romanian Government, according to Tudorache, was its lack of vision for Romania's development or role in Europe. He said Romania would be a net contributor to the EU budget for at least the first two years, as it would contribute about 1.4 billion euros this year alone and he has seen "no work being done to absorb near that amount." The 30 billion euros in post-accession matching funds have yet to be touched even four months after accession. He said the paying agencies were "all messed up, especially in Agriculture" as the ministries were not applying for matching funds to develop infrastructure, and few private firms knew how to apply. He said that "in Romania,

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political turmoil at the top causes a whole ministry to stop action until it is certain who is boss." Unlike Spain, Portugal, and Ireland, who succeeded in developing their infrastructures upon accession, Romania was wasting a unique opportunity just so the "oligarchs" could "continue to run things to their benefit."

16. (C) Tudorache added that he was beginning to believe that the EU funds were actually unwanted, since they would subject local economic players to an open tender process and outside competition. One indicator, he said, was that none of the fifty EC Delegation experts had been hired by the government to help it apply for post-accession funds. Claiming "there's not much room for independent professionals" in Romania, Tudorache said he would instead be moving to Brussels to work for the EC's Directorate General for Justice.

Anticorruption Efforts: For the Sake of Image?

17. (C) Laura Stefan, the Anticorruption Director at the Ministry of Justice, told PolOff and RLA in a separate meeting that her original meeting with "Tudor" when he was head of the Prime Minister's Inspection Department in 2005 illustrated that he did not really know what he was doing, but that he was open to help, and although preoccupied with his image, he was able to do a good job and achieve a good mark for his department with Brussels. However, she noted that European Commission Vice President Franco Frattini's recent private comment was that Romania seemed to be back in the days of Justice Minister Diaconescu, when there was a likeable, though not wholly competent, Justice Minister who would say the right things, but was controlled by people behind him and therefore ultimately ineffective. Stefan said the mood in the ministry was one of concern that those working on justice reforms would be slowly removed or kept just to keep up a charade of anticorruption efforts.

¶8. (C) Stefan said she had just been in Brussels to present Romania's progress on anti-corruption before the EU peer review on Justice and Home Affairs arrived in Bucharest. In response to a Commissioner's question of why the Justice Minister was replaced if everything was going so well with anti-corruption efforts, Stefan said she quipped, "I guess we were too effective."

¶9. (C) Stefan said the chances for the National Integrity Agency (ANI), her "baby," to be adopted now were higher and noted that Chiuariu had intervened at her request to gain more time before the law's review in parliament in order to reintroduce the revisions Brussels wanted, including the ability to confiscate officials' unjustified wealth and monitor their conflicts of interests. Later, however, she said Chiuariu told her it was a "secret" that he was preparing such measures and, when he reintroduced them on April 22, even parliamentarians from his Liberal Party reacted strongly against the toughened law.

¶10. (C) Stefan also noted with discouragement that parliament's February decriminalization of certain types of bank fraud and Morar's recent comment that it could result in acquittals in some fifty-five cases under DNA investigation. Stefan said Chiuariu was upset with Morar for stating that publicly, saying to her "who would have known?" Stefan wondered whether she should stay in the ministry and commented that she would have to consider emigrating if she resigned since job prospects for anti-corruption advocates appeared slim in Romania. (note: Former Justice Minister Macovei also admitted to a Dutch newspaper that she was considering emigrating when the Democratic Party approached her to help President Basescu's campaign to be restored to office.)

¶11. (C) Stefan said she would resign if the Minister dismissed the Chief Prosecutor of the National Anticorruption Department, Daniel Morar, as that would remove from all prosecutors the feeling of prosecutorial independence to pursue major cases of corruption. Tudorache believed DNA Chief Prosecutor Morar's days were numbered within the month that the interim Romanian President could sign off on his dismissal. In response to Frattini's public stand by Morar, Minister Chiuariu pledged on April 24 not to replace the head of DNA or the Prosecutor General.

¶12. (C) Comment: Tudorache claimed he had "already heard" from people within the justice system that Chiuariu was

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"sticking his nose into files" -- referring to DNA's files on high corruption. However, Stefan told us that she saw no evidence of Chiuariu looking in that direction and discounted any possibility that those with the files would ever show anything to him. These dossiers have always been the hard currency of power politics in post-communist Romania, and we do not wholly exclude that possibility. We believe Minister Chiuariu was likely chosen more for his loyalty than his competence. A charitable interpretation of his appointment is that he will at best be a sincere if wholly inexperienced hard worker whose efforts will be unlikely to threaten the interests of Romania's hidden oligarchs -- including Fenechiu, the PNL Iasi baron who reportedly helped secure Chiariu's and Interior Minister Cristian David's positions. End comment.

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